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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Notice of Proposed Rulemaking in a Matter of Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges, et al*, CG Docket Nos., 11-116 and 09-158, and CC Docket No. 98-170 ("Cramming")

Dear Chairman Genachowski:

We represent Business Discount Plan, Inc. ("BDP"), a switchless reseller of long distance service. BDP is authorized by the Federal Communications Commission ("Commission") to provide long distance service to customers throughout the United States. The following are BDP's Comments to the FCC's proposed rules set forth in the above-referenced rulemaking docket.

Like most, if not all, switchless resellers of long distance service, BDP itself does not directly bill its customers for its long distance service, but instead bills its customers through local exchange carriers ("LEC"), commonly referred to as "LEC billing." Specifically, under its LEC billing arrangement, BDP provides its billing aggregator BDP's monthly call detail records consisting of the respective customer's billing telephone number, the monthly minutes of use for this number and the rate plan associated with this number. The billing aggregator then prepares a billing report based on these call detail records, and provides the report to the respective customer's LEC who has entered into a billing and collection contract with the billing aggregator. The LEC includes the customer's charges for BDP's long distance service on the same bill containing the LEC's charges to the customer for local exchange service, and sends the combined bill to the customer. The LEC collects from the customer payment for the BDP charges, retains its contractual billing and collection fee, and remits the balance to the billing aggregator. The billing aggregator, in turn, retains its contractual billing and collection fee, and remits the balance to BDP.


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BDP, like most, if not all, switchless resellers of long distance service, depend on LEC billing to survive. BDP, like all switchless resellers, cannot economically provide its own billing and collection functions, and requires LEC billing in order to continue providing low cost long distance to its customers. If switchless resellers can no longer use LEC billing, they likely will be forced out of business, resulting in the loss of competition in the long distance marketplace and higher prices to customers for long distance service.

In its Notice of Proposed Rulemaking, the Commission seeks comment on, among other things, whether it should adopt rules prohibiting all third-party charges on wireline telephone bills. This all engulfing prohibition presumably would include prohibiting wireline carriers from including on their bills to customers for local exchange service, the long distance charges from the customers' presubscribed 1+ long distance carriers, as well as the charges for related telecommunications services bundled with the presubscribed long distance service. In a nutshell, such a prohibition would do away with LEC billing.

BDP agrees with the FCC's admirable efforts to eliminate cramming. The Commission, however, should ensure that in adopting rules to eliminate cramming, it does not, at the same time, eliminate LEC billing, a critical billing and collection function that resellers, such as BDP, require to survive. More pointedly, BDP does not believe that the Commission should adopt a rule that absolutely prohibits wireline carriers from including on their bills the charges from long distance carriers for presubscribed 1+ telecommunications service. Additionally, BDP does not believe that the Commission should adopt a rule that absolutely prohibits wireline carriers from including on their bills charges for telecommunications services that are bundled with the presubscribed 1+ service, including calling card service and dial around service, commonly referred to as casual calling service.

An absolute prohibition on LEC billing -- billing for presubscribed 1+ long distance service, and telecommunications services bundled with presubscribed 1+ long distance service -- is wholly unnecessary and contrary to the public interest, because the Commission's existing slamming rules implementing Section 258 of the Communications Act of 1934, as amended (the "Act"), should ensure that cramming does not occur in connection with any charges for the presubscribed 1+ long distance service, and any telecommunications services bundled with the presubscribed service. These slamming rules ensure, *via*, an independent third party verification, that the subscriber has, in fact, selected, or presubscribed to, a particular carrier as his/her preferred 1+ carrier, including the telecommunications services bundled with presubscribed 1+ services. Consequently, the Commission's slamming rules ensure that the customer has authorized any charges for presubscribed long distance service, and any associated bundled telecommunications services. Charges for these authorized services cannot possibly constitute cramming.

Presubscribed 1+ long distance service, bundled with telecommunications services are unlike the subscription-based, automatically renewing services generating the customer complaints discussed in the Notice of Rulemaking. Unlike the presubscribed 1+ long distance service, and any associated bundled services, the services generating cramming complaints were never ordered by the customer. If any complaints do arise from the 1+ presubscribed long distance service, or any associated bundled services, the Commission's pre-existing slamming rules will apply to these complaints.

As noted above, an absolute prohibition on all third party charges on wireline telephone bills will have the unintended consequences of eliminating certain calls that must remain available because they serve the public interest. First, collect calls from prisoners institutionalized who have rights to communicate by telephone with their families must be available. Second, emergency collect calls from persons requesting immediate assistance are essential.

Such a prohibition will also adversely affect competition in the long distance telecommunications nationwide market place. Resellers of long distance service, including BDP, will be forced out of business, resulting in higher prices for long distance service to customers.

BDP appreciates the opportunity to submit its comments in this proceeding and to work with the Commission in implementing rules that will prevent cramming and, thus, protect consumers. BDP, however, requests that the Commission, in adopting cramming rules, not jeopardize the existence of resellers of long distance service by adopting rules that will do away with LEC billing for presubscribed 1+ long distance service and associated bundled telecommunications services.

Very truly yours,

Michael L. Glaser

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